

AMENDED IN ASSEMBLY MARCH 15, 2016

AMENDED IN ASSEMBLY MARCH 8, 2016

AMENDED IN ASSEMBLY FEBRUARY 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1557

Introduced by Assembly Member Mathis

(Coauthors: Assembly Members ~~Chávez and Cooper~~ *Chávez, Cooper, and Wagner*)

(Coauthors: Senators Anderson, Huff, and Runner)

January 4, 2016

An act to amend Section 38134 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1557, as amended, Mathis. School facilities: use by nonprofit youth organizations.

Existing law, known as the Civic Center Act, authorizes the governing board of a school district to grant the use of school facilities or grounds as a civic center, for specified purposes, upon terms and conditions deemed proper by the governing board of the school district. The act requires the governing board of a school district to authorize the use of school facilities or grounds by a nonprofit organization, or by a club or an association organized to promote youth and school activities, including, but not necessarily limited to, the Girl Scouts, the Boy Scouts, Camp Fire USA, the YMCA, a parent-teacher association, or a school-community advisory council. The act authorizes and requires the governing board of a school district to charge certain fees for use of its school facilities or grounds.

This bill would provide that a governing board of a school district may only charge a nonprofit organization, club, or association primarily organized to promote youth and school activities, including, but not necessarily limited to, the organizations listed above, an amount not to exceed the school district's actual costs for janitorial services and utilities, and public safety services when deemed necessary, for the specific school facilities or grounds used.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 38134 of the Education Code, as amended
2 by Section 2 of Chapter 764 of the Statutes of 2012, is amended
3 to read:

4 38134. (a) (1) The governing board of a school district shall
5 authorize the use of school facilities or grounds under its control
6 by a nonprofit organization, or by a club or an association
7 organized to promote youth and school activities, including, but
8 not necessarily limited to, any of the following:

9 (A) The Girl Scouts; the Boy Scouts; Camp Fire USA; or the
10 YMCA.

11 (B) A parent-teacher association.

12 (C) A school-community advisory council.

13 (2) This subdivision does not apply to a group that uses school
14 facilities or grounds for fundraising activities that are not beneficial
15 to youth or public school activities of the school district, as
16 determined by the governing board of the school district.

17 (b) (1) Except as otherwise provided by paragraph (2) or
18 elsewhere in law, a governing board of a school district may charge
19 an amount not to exceed its direct costs for use of its school
20 facilities or grounds pursuant to this section. A governing board
21 of a school district that levies these charges shall first adopt a
22 policy specifying which activities shall be charged an amount not
23 to exceed direct costs.

24 (2) The governing board of a school district may only charge a
25 nonprofit organization, club, or association primarily organized
26 to promote youth and school activities, including, but not
27 necessarily limited to, the organizations listed in paragraph (1) of
28 subdivision (a), an amount not to exceed the school district's actual

1 costs for janitorial services and utilities, and public safety services
2 when deemed necessary, for the specific school facilities or grounds
3 used pursuant to this section.

4 (c) The governing board of a school district may charge an
5 amount, not to exceed its direct costs for use of its school facilities
6 or grounds by the entity using the school facilities or grounds,
7 including a religious organization or church, that arranges for and
8 supervises sports league activities for youths as described in
9 paragraph (6) of subdivision (b) of Section 38131.

10 (d) The governing board of a school district that authorizes the
11 use of school facilities or grounds for the purpose specified in
12 paragraph (3) of subdivision (b) of Section 38131 shall charge the
13 church or religious organization an amount at least equal to the
14 school district's direct costs.

15 (e) In the case of an entertainment or a meeting where an
16 admission fee is charged or contributions are solicited, and the net
17 receipts are not expended for the welfare of the pupils of the school
18 district or for charitable purposes, a charge equal to fair rental
19 value shall be levied for the use of the school facilities or grounds.

20 (f) If the use of school facilities or grounds under this section
21 results in the destruction of school property, the entity using the
22 school facilities or grounds may be charged for an amount
23 necessary to repay the damages, and further use of the facilities
24 or grounds by that entity may be denied.

25 (g) As used in this section:

26 (1) "Direct costs" to the school district for the use of school
27 facilities or grounds includes all of the following:

28 (A) The share of the costs of supplies, utilities, janitorial
29 services, services of school district employees, and salaries paid
30 to school district employees directly associated with the
31 administration of this section to operate and maintain school
32 facilities or grounds that is proportional to the entity's use of the
33 school facilities or grounds under this section.

34 (B) The share of the costs for maintenance, repair, restoration,
35 and refurbishment, proportional to the use of the school facilities
36 or grounds by the entity using the school facilities or grounds under
37 this section as follows:

38 (i) For purposes of this subparagraph, "school facilities" shall
39 be limited to only nonclassroom ~~space~~ *space*, and "school grounds"
40 shall include, but not *necessarily* be limited to, playing fields,

1 athletic fields, track and field venues, tennis courts, and outdoor
2 basketball courts.

3 (ii) The share of the cost for maintenance, repair, restoration,
4 and refurbishment shall not apply to:

5 (I) Classroom-based programs that operate after school hours,
6 including, but not *necessarily* limited to, after school programs,
7 tutoring programs, or child care programs.

8 (II) Organizations retained by the school or school district to
9 provide instruction or instructional activities to pupils during school
10 hours.

11 (iii) Funds collected under this subparagraph shall be deposited
12 into a special fund that shall only be used for purposes of this
13 section.

14 (2) “Fair rental value” means the direct costs to the school
15 district plus the amortized costs of the school facilities or grounds
16 used for the duration of the activity authorized.

17 (h) By December 31, 2013, the Superintendent shall develop,
18 and the state board shall adopt, regulations to be used by a school
19 district in determining the proportionate share and the specific
20 allowable costs that a school district may include as direct costs
21 for the use of its school facilities or grounds.

22 (i) (1) A school district authorizing the use of school facilities
23 or grounds under subdivision (a) is liable for an injury resulting
24 from the negligence of the school district in the ownership and
25 maintenance of the school facilities or grounds. An entity using
26 school facilities or grounds under this section is liable for an injury
27 resulting from the negligence of that entity during the use of the
28 school facilities or grounds. The school district and the entity using
29 the school facilities or grounds under this section shall each bear
30 the cost of insuring against its respective risks, and shall each bear
31 the costs of defending itself against claims arising from those risks.

32 (2) Notwithstanding any other law, this subdivision shall not
33 be waived. This subdivision does not limit or affect the immunity
34 or liability of a school district under Division 3.6 (commencing
35 with Section 810) of Title 1 of the Government Code for injuries
36 caused by a dangerous condition of public property.

37 (j) This section shall remain in effect only until January 1, 2020,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2020, deletes or extends that date.

1 SEC. 2. Section 38134 of the Education Code, as added by
2 Section 3 of Chapter 764 of the Statutes of 2012, is amended to
3 read:

4 38134. (a) (1) The governing board of a school district shall
5 authorize the use of school facilities or grounds under its control
6 by a nonprofit organization, or by a club or an association
7 organized to promote youth and school activities, including, but
8 not necessarily limited to, any of the following:

9 (A) The Girl Scouts; the Boy Scouts; Camp Fire USA; or the
10 YMCA.

11 (B) A parent-teacher association.

12 (C) A school-community advisory council.

13 (2) This subdivision does not apply to a group that uses school
14 facilities or grounds for fundraising activities that are not beneficial
15 to youth or public school activities of the school district, as
16 determined by the governing board of the school district.

17 (b) (1) Except as otherwise provided by paragraph (2) or
18 elsewhere in law, a governing board of a school district may charge
19 an amount not to exceed its direct costs for use of its school
20 facilities or grounds pursuant to this section. A governing board
21 of a school district that levies these charges shall first adopt a
22 policy specifying which activities shall be charged an amount not
23 to exceed direct costs.

24 (2) The governing board of a school district may only charge a
25 nonprofit organization, club, or association primarily organized
26 to promote youth and school activities, including, but not
27 necessarily limited to, the organizations listed in paragraph (1) of
28 subdivision (a), an amount not to exceed the school district's actual
29 costs for janitorial services and utilities, and public safety services
30 when deemed necessary, for the specific school facilities or grounds
31 used pursuant to this section.

32 (c) The governing board of a school district may charge an
33 amount, not to exceed its direct costs for use of its school facilities
34 or grounds by the entity using the school facilities or grounds,
35 including a religious organization or church, that arranges for and
36 supervises sports league activities for youths as described in
37 paragraph (6) of subdivision (b) of Section 38131.

38 (d) The governing board of a school district that authorizes the
39 use of school facilities or grounds for the purpose specified in
40 paragraph (3) of subdivision (b) of Section 38131 shall charge the

1 church or religious organization an amount at least equal to the
2 school district's direct costs.

3 (e) In the case of an entertainment or a meeting where an
4 admission fee is charged or contributions are solicited, and the net
5 receipts are not expended for the welfare of the pupils of the school
6 district or for charitable purposes, a charge equal to fair rental
7 value shall be levied for the use of the school facilities or grounds.

8 (f) If the use of school facilities or grounds under this section
9 results in the destruction of school property, the entity using the
10 school facilities or grounds may be charged for an amount
11 necessary to repay the damages, and further use of facilities or
12 grounds by that entity may be denied.

13 (g) As used in this section:

14 (1) "Direct costs" to the school district for the use of school
15 facilities or grounds means the costs of supplies, utilities, janitorial
16 services, services of school district employees, and salaries paid
17 to school district employees directly associated with the
18 administration of this section necessitated by the entity's use of
19 the school facilities or grounds.

20 (2) "Fair rental value" means the direct costs to the school
21 district plus the amortized costs of the school facilities or grounds
22 used for the duration of the activity authorized.

23 (h) (1) A school district authorizing the use of school facilities
24 or grounds under subdivision (a) is liable for an injury resulting
25 from the negligence of the school district in the ownership and
26 maintenance of the school facilities or grounds. An entity using
27 school facilities or grounds under this section is liable for an injury
28 resulting from the negligence of that entity during the use of the
29 school facilities or grounds. The school district and the entity using
30 the school facilities or grounds under this section shall each bear
31 the cost of insuring against its respective risks and shall each bear
32 the costs of defending itself against claims arising from those risks.

33 (2) Notwithstanding any other law, this subdivision shall not
34 be waived. This subdivision does not limit or affect the immunity
35 or liability of a school district under Division 3.6 (commencing
36 with Section 810) of Title 1 of the Government Code for an injury
37 caused by a dangerous condition of public property.

38 (i) This section is operative on and after January 1, 2020.

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